

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 249 Physician Assistants
SPONSOR(S): Policy Council, Patronis and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 720

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Health Care Regulation Policy Committee	7 Y, 0 N	Holt	Calamas
2)	Health & Family Services Policy Council	25 Y, 0 N	Lowell	Gormley
3)	Policy Council	24 Y, 0 N, As CS	Phillips	Hogge
4)				
5)				

SUMMARY ANALYSIS

The bill, in Section 458.347, F.S., deletes the requirement in the respective practice acts for medical doctors and doctors of osteopathic medicine that a supervising doctor:

- Review and cosign medical records or charts that are prepared by a physician assistant (PA); and,
- Review and sign each prescription or dispensing medication notation made by a prescribing physician assistant.

In addition, the bill, in s. 458.348, F.S., provides that a physician assistant (PA) or advanced registered nurse practitioner (ARNP) does not require direct supervision when performing laser hair removal at a medical office at which this is the only service being performed.

Other current laws relating to PAs, including, but not limited to, education and training requirements, oversight, scope of practice authority, supervision standards, protocols and prescribing authority are unchanged by this bill. In addition, a physician assistant is not allowed to prescribe controlled substances. Also unchanged, when performing laser hair removal, ARNPs are required to work under written protocols with the Board of Nursing and Board of Medicine. PAs are required to work under the indirect supervision of a physician.

The bill does not appear to have a fiscal impact on state or local governments.

The bill takes effect July 1, 2009.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Scope of Practice Authority

The legal authority to provide health care services is tied to state statutes generally referred to as practice acts. Practice acts establish professional "scopes of practice," and often differ from state to state.

Physician Assistant

In the mid-1960s, the concept of a "mid-level" provider, the physician assistant (PA), was created when physicians and educators recognized there was a shortage and uneven distribution of primary care physicians. To expand the delivery of quality medical care, a two-year advanced curriculum was created based on the Navy corpsmen and the fast-track training doctors received during World War II.¹ Currently, there are four institutions offering PA degrees in Florida: Barry University, Nova Southeastern University, University of Florida, and Miami Dade College.² Miami Dade College offers a 2-year associate degree program. The remaining are master's level degree programs. As of June 2008, there are approximately 4,152 actively licensed PAs in Florida.³

Oversight of Physician Assistants

A PA practices medicine under the indirect or direct supervision of a medical doctor (MD) or a doctor of osteopathic medicine (DO). PAs are regulated through the medical practice acts for MDs and DOs.⁴ Each of the medical practice acts has a corresponding board (i.e., the Board of Medicine and the Board of Osteopathic Medicine). The duty of the boards and its members is to participate in probable cause panels and make disciplinary decisions concerning whether a doctor or PA was practicing medicine within the confines of their practice act. To ensure that PAs have adequate oversight, the Council on Physician Assistants (or "Council") was created. The role of the Council is to recommend the licensure requirements (including educational and training requirements) for PAs, establish a list of formulary drugs that a PA may *not* prescribe, and develop rules for the use of PAs by doctors to ensure that the continuity of supervision is maintained in each practice setting throughout the state. The Council is

¹ Duke University, Physician Assistant History Center, Timeline (2004). Available online at: <http://www.pahx.org/timeline.html>; viewed February 27, 2009.

² American Academy of Physician Assistants, PA Educational Programs: Accredited Florida Physician Assistant Programs. Available online at: <http://www.aapa.org/pgmview.php3?state=FL>; viewed February 27, 2009.

³ The Florida Department of Health, Division of Medical Quality Assurance, Annual Report: July 1, 2007- June 30, 2008.

⁴ Sections 458.347 and 459.022, F.S

composed of five members, of which, two must supervise PAs: three doctors who are members of the Board of Medicine; one doctor who is a member of the Board of Osteopathic Medicine; and one licensed PA.

Supervision Standards for Physician Assistants

A supervising doctor may only delegate tasks and procedures to PAs that are within the supervising doctor's scope of practice.⁵ The supervising doctor may provide direct or indirect supervision. The decision to allow a PA to perform a task or procedure under direct or indirect supervision is made by the supervising doctor based on reasonable medical judgment regarding the probability of morbidity and mortality to the patient.

Direct supervision entails the physical presence of the supervising doctor on the premises so that he or she is immediately available to the PA when needed.⁶ Indirect supervision requires reasonable proximity between the supervising doctor and the PA and requires the ability to communicate by telecommunications.⁷ There are several duties that a PA is *not* permitted to perform under indirect supervision such as: insertion of chest tubes or central venous catheters; performance of cardiac stress tests; administration of general, spinal, and epidural anesthetics; and interpretation of laboratory tests, X-ray studies and EKGs without the supervising doctor's interpretation and final review.⁸

Additionally, all tasks and procedures performed by the PA must be documented in the appropriate medical record. Current law provides that supervising doctors who are dermatologists may not be required to review and cosign medical records or charts that are prepared by a PA.⁹

The Department of Health requires supervising doctors to review and cosign medical records or charts prepared by a PA. During the initial six months of supervision, the supervising doctor must review, sign and date all medical charts prepared by the PA within *seven* days. After six months, the supervising doctor must review, sign and date the medical charts within *thirty* days.¹⁰ Additionally, when prescribing, a PA must note the prescription or dispensing of medication in the medical record and the supervising doctor must review and sign each notation.¹¹

It is the responsibility of the supervising doctor to ensure that the PA is knowledgeable and skilled in performing the tasks and procedures assigned. The supervising physician is responsible and liable for any and all acts of the PA. A doctor may only supervise up to four PAs at any one time.¹² According to the Board of Medicine, since Fiscal Year 2006-07 there have been three MDs who have been the subject of disciplinary action for failing to adequately supervise the activities of PAs under their supervision.¹³

Prescribing Authority

PAs must apply for licensure to prescribe jointly with the supervising doctor. Additionally, each supervising doctor and prescribing PA must keep a written agreement (or protocol) that outlines the intent to delegate prescribing authority and which non-controlled substances the PA is authorized to prescribe. The agreement must be signed and dated by all parties and maintained on file for at least five years and a copy must be provided to the respective board or council upon request.¹⁴ A copy is not usually requested unless an investigation of a disciplinary complaint occurs. The PA is restricted to prescribing drugs that are used in the supervising doctor's practice.¹⁵ A PA is *not* allowed to prescribe controlled substances.

⁵ Rules 64B8-30.012 and 64B15-6.010, F.A.C.

⁶ Rules 64B8-30.001 and 64B15-6.001, F.A.C.

⁷ *Id.*

⁸ Rules 64B8-30.012 and 64B15-6.010, F.A.C.

⁹ Sections 459.025(3)(c) and 458.348(4)(c), F.S.

¹⁰ *Id.*

¹¹ Sections 458.347(4)(e)8. and 459.022(4)(e)8., F.S.

¹² Sections 458.347(3) and 459.022(3), F.S.

¹³ Email from the Executive Director of the Florida Board of Medicine, dated February 26, 2009, is on file with Health Care Regulation Policy Committee.

¹⁴ Rules 64B8-30.0074 and 64B15-6.0037, F.A.C.

¹⁵ Sections 458.347(4) and 459.022(4), F.S.

Prior to receiving a license to prescribe, a PA must complete a three-hour medical education course in prescriptive practice and complete at least three months of clinical experience in the specialty area of the supervising physician. Additionally, the PA must submit a supervision data form. This form must be updated within 30 days of a change in employment or supervision to the respective board. If notification does not occur a notice is issued and then followed by a citation for noncompliance. According to the Board of Medicine, 60 notices were issued for failure to submit an updated supervision form to a board between July 2008 and June 2009.

Electrolysis and Laser Hair Removal

Chapter 478, Florida Statutes, governs the practice of Electrology in Florida, and is referred to as the "Electrolysis Practice Act" in s. 478.40, F.S. The practice act sets forth definitions, requirements for licensure in Florida, requirements for renewal of license, requirements for electrolysis facilities, grounds for discipline, penalties for violating the practice act, and powers and duties of the Board of Medicine and the Electrolysis Council.

Currently ss.459.025 (2) and 458.348(3) require that an electrologist, when performing laser hair removal, perform such procedure under the direct supervision and responsibility of a licensed physician or osteopathic physician under chapter 458 or 459.

Further, s. 458.348 (4), addresses protocols and direct supervisory requirements relating to an ARNP or PA at a medical office where only laser hair removal is performed. In this case, paragraph (4)(e) provides that a physician supervising an ARNP or PA has the option to allow indirect supervision at a medical office other than the physician's primary practice location. Due to what it perceives to be a conflict in these two sections of Chapter 458, F.S., the Board of Medicine Quality Assurance Committee at a meeting in 2005, ". . . restated their position that an [sic] MD, a Physician Assistant as delegated by the supervising physician and an ARNP under protocol, may perform laser hair removal, skin resurfacing, skin rejuvenation, injection of botox and collagen provided that the M.D. and the physician extender are qualified by education, training licensure to do so. Electrologists may perform laser hair removal under the direct supervision and responsibility of a physician."¹⁶

Effect of Proposed Changes

The effect of the bill provides that:

- Medical doctors and doctors of osteopathic medicine may choose whether or not to review and cosign medical records or charts and prescriptions or dispensing medication notations made by a prescribing physician assistant (PA); and,
- As and ARNPs do not require direct supervision when performing laser hair removal at a medical office at which this is the only service being performed.

B. SECTION DIRECTORY:

Section 1. Amends s. 458.347, F.S. relating to physician assistants.

Section 2. Amends s. 458.348, F.S. relating to laser hair removal by physician assistants and advanced registered nurse practitioners.

Section 3. Amends s. 459.022, F.S. relating to physician assistants.

Section 4. Provides an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

¹⁶ Minutes, Board of Medicine Quality Assurance Committee Meeting, August 12, 2005, http://www.doh.state.fl.us/mqa/medical/me_laser.html, last reviewed March 23, 2009.

1. Revenues:
Not applicable.
2. Expenditures:
Not applicable.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
Not applicable.
2. Expenditures:
Not applicable.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax sharing with counties or municipalities.

2. Other:

Not applicable.

B. RULE-MAKING AUTHORITY:

The department appears to have sufficient rulemaking authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

The Council Substitute favorably reported by the Policy Council on March 23, 2009, differs from the original bill in that the Committee Substitute provides that a PA and an ARNP do not require direct supervision when performing laser hair removal at a medical office at which this is the only service being performed.